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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,622	04/11/2001	John J. Potenza	SE001U	1826

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EXAMINER

NGUYEN, TAN D

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

09/832,622

Applicant(s)

POTENZA, JOHN J.

Examiner

Tan Dean Nguyen

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The prior art statement filed 7/24/01 has been received and recorded.

### ***Claim Rejections - 35 USC § 112***

1. Claims 39-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 39, step (b) is vague because the evaluation data is obtained from the service evaluator not from the service provider. Claim 44, the last two lines are vague.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 39-53, 31-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over FUERST (US Patent 6,189,029).

As for claim 39, FUERST discloses a method for assisting the management of a service provider by conducting an automatic survey and report system comprising the steps of: creating a survey using a evaluation processor (survey creator), contacting the service evaluator (employee) for obtaining data about the provider service (company's medical plan, etc.), providing correlated information from the obtained data to the

Art Unit: 3629

service provider manager (plan's Administrator or Corporate) whereby the manager may evaluate the service (medical plan) provided by the service provider (company) (see col. 1, lines 40-45 (or 1:40-45), 2:20-65, 7:65-69, 8:1-30, 9:20-60).

As for claim 40, this is shown on 1:40-45. As for claims 41-43, 31, 45-46, the teaching of assigning of unique identifier to the evaluator or processor is fairly taught by FUERST on 7:65 to 8:30 to accurately monitor of the survey and provide specific and effective responses to the evaluator to ensure good service. The various assigning of the identification to other groups or evaluation processor would have been obvious as mere duplication of the ID assigning process to further improve the effectiveness of the survey and response. As for claim 32, this is taught on 1:40-45, 2:20-25. As for claims 44, 33, 48, the manipulation of collected data into correlated or meaningful information is taught on 2:40-45, 8:20-25, 9:60. As for claim 47, FUERST teaches the monitoring of many employees by using a survey. The application to at least one employee would have been obvious as mere changing in size since the collection of many involves multiple duplication of at least one employee. As for claims 49, 34, the use of incentive such as bonus, discount, gift, etc., to compensate the evaluator for taking the time to complete the survey is well known and would have been obvious to a skilled artisan if the incentives are available and getting more evaluators to involve in the survey is important. As for claims 50, 35, these are shown as survey network as shown on Fig. 1, or col. 2, lines 20-65. As for claims 51, 36, these are taught on 2:20-25. As for claims 52, 37, these are shown on 2:25-30. As for claims 53, 38, these are shown on 2:20-30.

Art Unit: 3629

Alternatively, the use of other similar electronic communication means would have been obvious.

4. Claims 1-16, and 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over FUERST (US Patent 6,189,029) in view of SMITH (US Patent 2002/0123925).

As for claim 1, the teaching of FUERST is cited above. FUERST teaches claim 1 except for in ( c ) wherein the manager may evaluate the service provided by the at least one employee to the at least one service evaluator.

In a similar interactive and automatic survey, SMITH is cited to teach the monitoring and rewarding the performance of an employee (agent or personnel ) by automatically sending survey to the customer who receives the service from the employee, receiving data (or information) from the customer with respect to the performance of the employee, accumulating the data and tabulating the data into correlated or useful information, presenting the useful information to the supervisor for evaluating the performance of the employee (see Figs. 3, 6, 0006, 0021, 0022, 0024, 0025, 0026, 0031). It would have been obvious to modify the management/employee survey (internally) of FUERST to include other known monitoring of employee's performance with respect to customer (externally) as taught by SMITH so as to monitor proper employee's performance and reward if desired.

As for claims 2, it's rejected for the same reason set forth in claim 40 above (same limitation). As for claims 3-4, 7-9, 5-6, 10-16, they are rejected for the same reasons set forth in claims 41-42, 44-46, 43, 47-53 respectively. As for the incentive

Art Unit: 3629

limitation, this is also taught in SMITH [0024]. Claim 17 is rejected for the same reason set forth in claims 3 and 4 above. Claims 18, 19, 21, 23, 25, 20, 22, 26-30 are rejected for the same reason set forth in claims 2, 4, 7, 8, 9, 6, 11, 12-16 respectively.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) Foreign:

a) JP 20003582 is cited to teach automatic interactive survey using television broadcasting.

b) WO 01/33831 is cited to teach interactive web-based survey system and method between subscriber/publisher.

2) NPL:

a) Full Text: Article "Comparing ....Banking" is cited to teach automatic and effective customer's feedback (survey).

b) Non-Full Text: "Effects of ....Performance" is cited to teach interactive survey for monitoring customer service.

Art Unit: 3629

6. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiner. As the official records and applications are located in the clerical section of the examining Tech Center, the clerical personnel can readily provide status information without contacting the examiner. See MPEP 203.08. The Tech Center clerical receptionist number is (703) 308-1113.

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail CustomerService3600@uspto.gov .


Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (703) 308-2053. My work schedule is normally Monday through Friday from 7:00 am through 4:30 pm.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 305-7687. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

Other possibly helpful telephone numbers are:

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/ 8335
Fee Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help Line	1-800-786-9199

dtm  
August 8, 2003

  
DEAN T. NGUYEN  
PRIMARY EXAMINER